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SCA/4855/2003 Judgement dated 27/07/2004 ##

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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4855 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

CHAUHAN ARJUNSINH BECHARSINH

Versus

MAMLATDAR VADALI

Appearance:

1. Special Civil Application No. 4855 of 2003

MR JV JAPEE for Petitioner No. 1-16

Mr. Nagesh Sood, AGP for Respondent No. 1-5

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 27/07/2004

ORAL JUDGEMENT

Rule. Mr. Nagesh Sood, learned AGP waives service of Rule on behalf of the respondents. With the consent of the parties, the matter is taken up for final hearing today.

2. The petitioners, who were agriculturists and whose lands have been submerged in Dharoi Dam project, have preferred the present Special Civil Application for an appropriate writ, direction or order for quashing and setting aside the order dated 26.12.2002 passed by the respondent No.1 in allotting the land at Village Nakod to the petitioners. The petitioners were entitled to be allotted the agricultural lands on permanent basis as per the Government resolution as they lost their agricultural lands. The petitioners are already allotted the lands on permanent basis at Village Nakod. It is the contention of the petitioners that the lands which are allotted to the petitioners are 15 Kms. away and it will cause great hardship to the petitioners. He further submits that in the nearby area lands are available which can be allotted to the petitioners and therefore he requests that they may be allowed to move an appropriate representation before the appropriate authority for allotment of any other land other than the lands of Nakod village. In the facts and circumstances, without expressing anything on merits of the case the respondents are directed to consider the representation that may be submtited by the petitioners for allotment of lands at any other place other than at Village Nakod and/or in the nearby area in accordance with law and on merits subject to availability of land in the vicinity. Mr. Japee submits that as such the petitioners have no right, but looking to the facts and circumstances the respondents may consider their case sympathetically. Accordingly, directions are issued to the respondents to consider the same sympathetically if any other land in the nearby vicinity is available. Rule is made absolute to the aforesaid extent. Direct service is permitted.

rmr. [M.R. Shah, J.]